

APPROVED

CHAPTER

JUN 08 '05

347

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIVE

H.P. 1071 - L.D. 1524

An Act To Update Professional and Occupational Licensing
Laws

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 5 MRSA §5301, sub-§2, ¶E, as repealed and replaced by PL 1995, c. 625, Pt. A, §11, is amended to read:

E. Convictions for which incarceration for less than one year may be imposed and that involve sexual misconduct by an applicant for massage therapy licensure or a licensed massage therapist or an applicant or licensee of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Examiners on Speech-language Pathology and Audiology, the Board of Hearing Aid Dealers and Fitters, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Nursing and the Emergency Medical Services' Board.

Sec. A-2. 5 MRSA §5303, sub-§2, as repealed and replaced by PL 1995, c. 625, Pt. A, §12, is amended to read:

2. **Ten-year limits.** For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Examiners on Speech-language Pathology and Audiology, the Board of Hearing Aid Dealers and Fitters, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, and the Emergency Medical Services' Board and applicants for massage therapy licensure or licensed massage therapists, the following apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system.

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions.

C. There is no time limitation for consideration of a registrant's, an applicant's or licensee's conduct that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.

PART B

Sec. B-1. 32 MRSA §1101, sub-§4-A, ¶¶A and B, as enacted by PL 1983, c. 413, §32, are amended to read:

A. School administrative units; and

B. Nonprofit organizations; and

Sec. B-2. 32 MRSA §1101, sub-§4-A, ¶C, as amended by PL 1995, c. 325, §5, is repealed.

PART C

Sec. C-1. 32 MRSA §4861, sub-§5, ¶B, as amended by PL 2003, c. 251, §2, is further amended to read:

B. Has paid the application required examination and license fees fee as set under section 4863-A;

Sec. C-2. 32 MRSA §4864, sub-§9, as repealed and replaced by PL 1977, c. 78, §187, is amended to read:

9. Cruelty to animals. The performance of any inhumane or cruel act, as established by the board ~~in accordance with Title 17, chapter 43 and Title 17-A, section 510,~~ and by applicable civil and criminal laws and rules in the treatment or care of any animal;

Sec. C-3. 32 MRSA §4865, as amended by PL 1993, c. 404, Pt. A, §10, is further amended to read:

§4865. Veterinary technicians

A qualified person desiring registration as a veterinary technician, as defined in section 4853, subsection 11, shall make written submit a completed application to the board, providing together with such information as the board requires and the required examination and license fee pursuant to section 4863-A.

~~All-veterinary-technicians-must-reregister-annually-on-or before-September-30th,-or-any-other-date-designated-by-the commissioner,-and-each-registration-must-be-accompanied-by-a reregistration-fee.~~

Sec. C-4. 32 MRSA §4865-A, sub-§8, as repealed and replaced by PL 1975, c. 740, §132, is amended to read:

8. Cruelty to animals. The performance of any ~~act prohibited by Title 17-A, section 510~~ inhumane or cruel act, as established by the board and by applicable civil and criminal laws and rules in the treatment or care of any animal;

PART D

Sec. D-1. 32 MRSA §12228, sub-§3, ¶A, as amended by PL 1999, c. 245, §3, is repealed.

Sec. D-2. 32 MRSA §12228, sub-§3, ~~¶B~~, as amended by PL 1999, c. 245, §3, is further amended to read:

B. ~~After-October-1,--2002,--at~~ At least 150 semester hours of education, including a minimum 4-year baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include basic courses in accounting and auditing determined to be appropriate under board rules. Rules adopted by the board pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A; and

Sec. D-3. 32 MRSA §12228, sub-§10, as amended by PL 2003, c. 688, Pt. C, §21, is further amended by amending the first paragraph to read:

10. **Experience.** ~~During--the--5-year--period--immediately following--October-1,--1997,--the--applicant--shall--show--that--the applicant--has--had--2-years-of-experience-in-the-practice-of-public accountancy-or-its-equivalent,--meeting-requirements-prescribed-by the--board--by--rule;--or,--if--the--applicant's--educational qualifications-include-a-masters-degree-conferred-by-a-college-or university--approved--by--the--board,--then--only--one--year--of experience-in-that-practice-or-its-equivalent-is-required,--After~~ ~~October-1,--2002,--for~~ For initial issuance of a certificate under this subsection, an applicant shall demonstrate 2 years of experience under the direction of a licensee certified public accountant licensed by any state or territory of the United States or equivalent direction, as determined by the board, by a licensed professional in another country and ~~shall~~ must meet the other requirements prescribed by the board by rule. The applicant's experience must include the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule. Board rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. To the extent the applicant's experience is as a revenue agent or in a similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Revenue Services, the applicant receives credit at the rate of 50% toward the experience required by this subsection. To the extent the applicant's experience is as an examiner engaged in financial examinations for the Bureau of Insurance, the applicant receives credit under this subsection if that experience meets the following standards:

Sec. D-4. 32 MRSA §12251, sub-§4, as amended by PL 1999, c.

245, §8, is further amended to read:

4. **Out-of-state certificates.** The board shall issue a permit to a holder of a certificate as a certified public accountant or a public accountant issued by another state upon showing that:

~~A.---The---applicant---passed---the---examination---required---for
issuance-of-the-certificate-with-grades-that-would-have-been
passing-grades-at-the-time-in-this-State,~~

B. The applicant:

(1) Meets all current requirements in this State for issuance of a certificate at the time the application is made;

(2) At the time of the issuance of the applicant's certificate in the other state, met all the requirements then applicable in this State; ~~or~~ and

~~(3)---Had---4---years---of---experience---in---the---practice---of
public-accountancy-or-equivalent-meeting-requirements
prescribed-by-the-board-by-rule,---after-passing-the
examination-upon-which-the-certificate-was-based-and
within---the---10---years---immediately---preceding---the
application,---and~~

(4) Was eligible to take and passed the examination required for issuance of the certificate with grades that would have been passing grades at the time in this State;

C. The applicant meets the requirements of subsection 3, paragraph B.; or

D. The applicant had 4 years of experience in the practice of public accountancy or equivalent meeting requirements prescribed by the board by rule, after passing the examination upon which the certificate is based and within the 10 years preceding the submission of the application.

Sec. D-5. 32 MRSA §12252, sub-§8, as enacted by PL 1999, c. 619, §3, is amended to read:

8. **Peer review for certified public accountancy firms.** ~~Effective-January-1,-2001,---the-board-shall-require,---as~~ As a condition to the granting or renewal of permits to certified public accountancy firms, ~~that~~ each applicant that provides a

defined service other than compilations must successfully participate in an approved peer review program. Participation in such a program is governed by the following.

A. ~~If the firm provides a defined service other than compilations as of the date of the initial granting or first renewal of a certified public accountancy firm's permit following December 15, 2000, a~~ A peer review must be completed within 18 months after the initial granting or first renewal of the permit following December 15, 2000. After December 15, 2000, the The firm must undergo a peer review every 3 years for as long as it provides a defined service other than compilations. ~~The firm may satisfy this requirement by showing evidence of the satisfactory completion of a peer review within 18 months prior to January 1, 2001.~~

B. A certified public accountancy firm that does not provide a defined service other than compilations is not required to undergo a peer review if the firm annually confirms in writing to the board that it does not provide a defined service other than compilations. A certified public accountancy firm that subsequently provides a defined service other than compilations must undergo a peer review within 18 months after the fiscal year end of the first defined services engagement other than compilations that it accepts. ~~Subsequent peer reviews are governed by the provisions of paragraph A.~~

The board is authorized to adopt rules to carry out the intent of this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A 2-A.

PART E

Sec. E-1. 32 MRSA §14701, sub-§4, as amended by PL 2005, c. 65, Pt. C, §19, is further amended to read:

4. **Merchandise.** "Merchandise" includes any objects, wares, goods, promises, commodities, intangibles, services or other things of value but does not include food or technical or vocational schools located outside of the State that are registered pursuant to Title 20-A, section 9501. "Merchandise" does not include securities that are registered or exempt from registration pursuant to chapter 135, the Maine Uniform Securities Act and rules adopted pursuant to that Act or insurance products that are regulated under Title 24-A.

PART F

Sec. F-1. 32 MRSA §14805, sub-§2, as enacted by PL 1995, c. 389, §4, is amended to read:

2. **Inspection.** State propane and natural gas inspectors, upon written complaint or whenever they consider it necessary for purposes of examination, may enter into and upon and inspect all buildings, dispensing stations and premises within their jurisdiction at all reasonable hours. They may enter a building, dispensing station or other premises within their jurisdiction only with the permission of the person having control of the building, dispensing station or other premises or, after hearing, upon order of court. If an inspector finds any propane or natural gas installation that does not comply with this Act, the inspector shall order that the installation be removed or remedied, and that order must be complied with immediately by the owner or occupant of the building, dispensing station or other premises ex--building or by the installer of the propane or natural gas equipment in violation. If the inspector finds any propane or natural gas installation in any building, dispensing station or structure on premises within the inspector's jurisdiction that creates a danger to other property or to the public, the inspector may forbid the use of the building, dispensing station or structure on premises within the inspector's jurisdiction by serving a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.